

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff

v.

**PUERTO RICO POLICE DEPARTMENT and
COMMONWEALTH OF PUERTO RICO,**

Defendants.

CIVIL NO. 12-cv-2039 (GAG)

MOTION FOR RECONSIDERATION

MAY IT PLEASE THE COURT:

COME NOW, Codefendants Commonwealth of Puerto Rico and the Puerto Rico Police Bureau (“PRPB”), through the undersigned attorneys, and very respectfully state and pray:

1. Today, May 4, 2023, this Honorable Court issued “Order Appointing Christopher Graham as Financial Oversight Officer” at ECF No. 2405. Essentially, concerned with PRPB’s reform related budgetary matters, the Court made the appointment in the case. Specifically, the Court ordered: i) that all reform-related financial and expenditure reports currently generated by the Commonwealth and distributed to the parties also be provided directly to Mr. Graham; and ii) that “Mr. Graham will assist, monitor, and report on the implementation and progress of the findings in the audit report, conduct as-needed audits and reviews, make recommendations to the Court regarding ways to improve the practices of PRPB and their review, and other duties as assigned by the Court.” ECF No. 2405 at page 2.

2. For the reasons stated herein, the Commonwealth of Puerto Rico respectfully requests from this Honorable Court to reconsider its Order.

3. The Court will recall that for the past several months the parties have been working under the Court's direction regarding Mr. Graham's audit. See ECF Nos. 2176, 2189, and 2321, among others. The matter has been discussed in at least two status hearings. The Commonwealth's exchange with Mr. Graham over the past several months has been nothing but positive and productive.

4. As recent as April 10, 2023, at ECF No. 2378, as part of this ongoing process of discussing Mr. Graham's audit and reform related expenditures, and after related filings from the parties, the Court ordered the parties to elaborate on certain matters. The Commonwealth filed a motion in compliance with that Order on April 24, 2023 at ECF No. 2390, respectfully concluding and suggesting that the natural next step in this process was for the parties, including the Monitor, Special Master and Mr. Graham, to meet to discuss, develop and agree on specific guidelines and protocols that after Court's approval would strictly govern the process by which reform related expenditures are processed. This would include a strategy to transition particular recurrent reform related expenses to PRPB's general budget.

5. Similarly, at ECF No. 2388, the United States, in its motion in compliance with the Court's April 10th Order stated above, indicated a similar recommendation: "The Commonwealth should work with the United States and the Monitor to complete a protocol on the use of the Reform Budget that incorporates the Commonwealth's transition strategy for routine, reoccurring expenses that should be covered by PRPB's general operating budget." See ECF No. 2388 at page 11. The United States noted in its motion that Mr. Graham in fact indicated in its audit memo that PRPB had submitted a draft protocol in September 2022 to that effect.

6. The Monitor, it is important to note, also recommended that the provision of specific guidelines and regulations regarding proper disbursement of Reform related funds are necessary.

See April 9, 2023 Memorandum from the Monitor's Office at ECF No. 2388-1. This Memorandum was included by the United States in its filing at ECF No. 2388.

7. Lastly, Mr. Graham also recommended PRPB in its audit report, ECF No. 2333-1, to meet to formalize and adhere to a specific protocol regarding the use of the Reform budget.

8. Thus, the Commonwealth respectfully submits that there is a consensus in this case that its immediate need regarding this matter is the development and agreement by all parties of a protocol regarding Reform related expenditures. The Commonwealth also respectfully submits that the natural progression of that need, before appointing a Financial Oversight Officer, is for this Honorable Court to order the parties, the Monitor, the Special Master and Mr. Graham, in his capacity as appointed auditor as per the Order at ECF No. 2176, to promptly meet to complete the process of agreeing on such protocol and submit it for Court's approval. Once the protocol is approved, the Court can revisit a potential role for Mr. Graham in this case going forward.

9. Therefore, the Commonwealth respectfully request this Honorable Court to reconsider its Order at ECF No. 2405, setting aside the appointment of Mr. Graham as Financial Oversight Officer as described therein, ordering the parties to meet to complete the process of agreeing on a protocol regarding Reform related expenditures and submit it for Court's approval, and defer the consideration of a specific role for Mr. Graham until after that process is fully completed.

WHEREFORE, the Commonwealth of Puerto Rico respectfully requests that this Honorable Court reconsider its Order at ECF No. 2405 as stated.

WE HEREBY CERTIFY that on this same date, the forgoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for Plaintiff and all participants of record.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico on this 4th day of May 2023.

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